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ENVIRONMENTAL PROTECTION

ENVIRONMENTAL REGULATION

Determination of Environmental Benefit of the Reuse of Further Treated Effluent in Industrial Facilities

Special Adopted and Concurrent Proposed New Rules: N.J.A.C. 7:14D

Authorized By: Bradley M. Campbell, Commissioner
Department of Environmental Protection

Authority: N.J.S.A. 54:10A-5.31 and 5.32; and N.J.S.A. 54:32B-8.36

Calendar Reference: August 5, 2002 at 34 N.J.R. 2872

DEP Docket Number: 23-02-08/338

Concurrent Proposal Number:

Expiration Date: January 4, 2003

Submit written comments by (30 days after publication of the proposal) to:

Janis E. Hoagland, Esq.
Attn: DEP Docket No.: _____
Office of Legal Affairs
PO Box 402
N.J. Department of Environmental Protection
Trenton, NJ 08625-0402

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These new rules were adopted in accordance with N.J.S.A. 54:10A-5.32 and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c), as implemented by N.J.A.C. 1:30-6.4). Concurrently, the provisions of the new rules are being proposed for readoption in compliance with the rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rules will become effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)) if filed on or before the new rules' expiration date in accordance with N.J.S.A. 54:10A-5.32.

The agency adoption and concurrent proposal follows:

Summary

The Department is proposing new rules at N.J.A.C. 7:14D, Determination of Environmental Benefit of the Reuse of Further Treated Effluent in Industrial Facilities. The proposed new rules implement N.J.S.A. 54:10A-5.31 and N.J.S.A. 54:32B-8.36, to enable persons who purchase treatment equipment or conveyance equipment for purposes of conveying effluent from a wastewater treatment facility to treatment equipment that is or has been installed, treating the effluent, and then conveying the further treated effluent to an industrial facility for reuse in an industrial process to apply to the Department for a determination of environmental benefit (DEB). The rules specify the application requirements and review process for the DEBs. An applicant who receives a DEB can file with the Division of Taxation a claim for a corporate business tax credit and/or sales

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tax refund for qualifying equipment in accordance with N.J.S.A. 54:10A-5.31 and N.J.S.A. 54:32B-8.36. As required by N.J.S.A. 54:10A-5.31, the Department will track the number of DEBs issued and the cost of each piece of equipment determined to qualify, and develop an annual report for submission to the Governor, the State Treasurer, and the Legislature.

The drought that occurred in the summer of 1999 focused attention on the need to find ways to better conserve and protect the State's water resources. The Department began to investigate water reuse programs already in place for many years in other states such as Florida and California. Such water reuse programs take what was once considered wastewater to be treated and discharged and instead subject the wastewater to a high degree of treatment in order to reuse the resulting effluent for a beneficial purpose. The treated effluent is used, for instance, to irrigate crops, livestock grazing areas, golf courses and landscaping. Industrial uses both in New Jersey and Florida include use of the treated effluent for cooling tower make-up water, once-through non-contact cooling water in power generation, and vehicle washing. As New Jersey's population continues to grow and increasing demands are placed on the State's water resources, more widespread, severe and prolonged water shortages are likely to occur. This scenario is reflected in the drought emergency that currently exists Statewide. Thus, facilitating the reuse of further treated effluent for industrial water needs will help New Jersey meet its water supply and wastewater management needs.

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To provide financial incentives to encourage the reuse of further treated effluent in industrial processes, the Legislature in 2001 enacted N.J.S.A. 54:10A-5.31 and 5.32 and N.J.S.A. 54:32B-8.36. These laws enable corporate taxpayers to obtain tax credits and/or sales tax refunds for qualifying treatment or conveyance equipment purchased and operated for the purpose of reusing further treated effluent in industrial processes in New Jersey, provided they first obtain a determination from the Department that the reuse will be environmentally beneficial.

A section-by-section description of the proposed new rules follows:

N.J.A.C. 7:14D-1.1 explains the purpose and applicability of the proposed rules.

N.J.A.C. 7:14D-1.2 contains definitions for terms that are used in N.J.A.C. 7:14D. Two definitions are drawn from the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2: “person,” and “pollutant.” The definition for “responsible official,” the term used to identify the person who will be certifying an application for a DEB, is based on the signatory requirements for permit applications and reports in the NJPDES rules at N.J.A.C. 7:14A-4.9.

Certain other terms used in the statutes, N.J.S.A. 54:10A-5.31 and 5.32 and N.J.S.A. 54:32B-8.36, are proposed to be defined at N.J.A.C. 7:14D-1.2, including “conveyance equipment,” “effluent,” “further treated effluent,” “industrial facility,” “industrial process,” “treatment equipment,” and “wastewater treatment facility.”

The Department is proposing to define “industrial process” as any manufacturing process, but not including recreational activities, because these sorts of processes wherein

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effluent might be reused are not contemplated by the statute. “Industrial facility” is defined as a facility where an industrial process takes place.

The Department is proposing to define “effluent” as the liquid resulting from treatment by a domestic or industrial wastewater treatment facility in accordance with discharge limits set forth in a NJPDES permit. Effluent must be of a sufficient quality that it can be lawfully discharged into the waters of the State. Industrial facilities may use effluent that has undergone additional treatment, rather than potable water or ground water, in their industrial processes. The Department is therefore proposing to define “further treated effluent” to mean the effluent that is subjected to this more advanced level of treatment.

N.J.S.A. 54:10A-5.31 provides that eligible treatment equipment is to be used to treat effluent from a “primary wastewater treatment facility.” The Department sees a potential for confusion between the term “primary wastewater treatment facility” and the term of art “primary treatment” that is used in water pollution control engineering to refer to physical treatment such as the removal of grit and screenings and rudimentary clarification. To avoid confusion between the statutory term “primary wastewater treatment facility” and the engineering term “primary treatment,” the proposed rules define and use the term “wastewater treatment facility” to refer to the facility that supplies the effluent for reuse. The Department does not believe the Legislature could have intended to use the term “primary wastewater treatment facility” to mean the same thing as “primary treatment,” because effluent that had undergone only “primary

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treatment” could not be lawfully discharged to the waters of the State and would not be suitable for reuse.

“Treatment equipment” that is used to treat effluent for reuse in an industrial process may be eligible for a DEB. The Department has clarified the statutory definition of “treatment equipment” to mean equipment that is used exclusively to provide a more advanced level of treatment to effluent from a wastewater treatment facility. The proposed definition for “conveyance equipment” is clarified by the addition of an explanatory phrase that conveyance equipment is pipes, pumps and/or other appurtenances, as well as a sentence that excludes from the definition of “conveyance equipment,” for purposes of these rules, conveyance equipment that is used to transport wastewater. Also the definition provides that conveyance equipment is equipment that is used exclusively to transport effluent to the facility in which treatment equipment has been or is to be installed as well as equipment that is used exclusively to transport further treated effluent to an industrial facility for reuse in an industrial process. The Department will therefore be able to separately consider for a DEB conveyance equipment that transports effluent for further treatment, treatment equipment that treats effluent, and conveyance equipment that transports further treated effluent to the industrial facility for reuse. For example, if an applicant proposes to purchase and operate only conveyance equipment that exclusively transports further treated effluent from existing treatment equipment to the industrial facility for reuse, that conveyance equipment would be considered for a DEB.

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N.J.A.C. 7:14D-1.3 provides that the rules are to be liberally construed and that they are severable.

N.J.A.C. 7:14D-2.1 establishes the application requirements for applicants requesting a Determination of Environmental Benefit . The Department will make guidance available to DEB applicants on its website. The rule sets forth the address to which an application is to be submitted, provides the certification that the applicant must execute, and lists the information that must be submitted to constitute a complete application. The items required to be submitted are necessary to enable the Department to ensure that the treatment or conveyance equipment is or will be used exclusively for reuse in an industrial process and that the reuse project will have an environmentally beneficial impact.

An applicant who submits an incomplete application will be notified of the deficiencies and will have an opportunity to provide the necessary information within 30 days. If the applicant does not timely provide the information, the application will be inactivated and returned to the applicant. The application can be completed and re-submitted within one year. After that, a new application must be submitted.

N.J.A.C. 7:14D-2.2 establishes the requirement for public notice and opportunity to comment on DEB applications. Once the Department receives a complete application, it will publish a notice in the DEP Bulletin that states that the Department is soliciting comments on the treatment or conveyance equipment that is the subject of the application

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and the environmental impact to water resources of the reuse project. A 30-day comment period will run from the day the public notice appears in the DEP Bulletin. It will be in the applicant's best interest to submit a complete application so that the public comment period and the Department's review of the application can be concurrent and thus be completed as expeditiously as possible.

N.J.A.C. 7:14D-2.3 establishes the standards for the Determination of Environmental Benefit . In order for treatment equipment to qualify for a DEB, an applicant must demonstrate that the treatment equipment is or will be used exclusively to treat effluent from a wastewater treatment facility, which effluent would otherwise have been legally discharged into waters of the State, for purposes of reuse in an industrial process. In order for conveyance equipment to qualify for a DEB, an applicant must demonstrate that the conveyance equipment is or will be used exclusively to transport effluent to the facility in which treatment equipment has been or is to be installed or that the conveyance equipment is used exclusively to transport further treated effluent to an industrial facility for reuse in an industrial process. The Department will decide whether some or all of the equipment components included in the application satisfy the criteria. In addition, the Department will consider whether the reuse project will be environmentally beneficially.

A reuse project will normally be environmentally beneficial simply because the reuse will reduce the demand on more conventional sources of water supply, thus helping New Jersey to meet its water supply needs. A reuse project would not be environmentally beneficial if adverse environmental impacts outweigh environmental benefit. Therefore,

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the Department will consider four factors in determining whether the reuse project will be environmentally beneficial. The first factor is that the reuse project will not cause a violation of any applicable minimum passing flow restrictions if effluent is treated and reused rather than discharged into a waterbody. The second factor is that, if the reuse project will result in a discharge of wastewater to a watershed other than the one to which the effluent would have been legally discharged, the transfer will not adversely affect the water resources of either watershed. The third factor that the reuse project will not increase pollutant loading to a receiving waterbody as a result of reusing the further treated effluent in an industrial process rather than legally discharging the effluent in accordance with a NJPDES permit. The last factor is that water resources will be conserved overall as a result of the reuse project.

N.J.A.C. 7:14D-2.3 explains the actions the Department will take following the review of an application. The Department will issue an approval only for equipment that meets the standards for the DEB. Partial approvals of applications may therefore be issued if not all of the conveyance or treatment equipment included in the application meets the standards. The DEB will be accompanied by a summary explaining the issues raised in any public comments received, as well as the basis for the Department's decision to issue the DEB. If a denial is issued because the DEB standards are not met, the Department will provide a basis for its decision, including a discussion of any comments received on the application.

N.J.A.C. 7:14D-3.1 establishes the procedure under which a person, subject to limitation of third party hearing rights specified in N.J.S.A. 52:14B-3.1-3.3, may request

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an adjudicatory hearing on the Department's approval or denial of the application for a DEB. This section specifically addresses the timeframe in which a hearing may be requested, where the request should be sent and what information should be included with the request.

Social Impact

The Department expects that the new rules will have an indirect positive social impact. An applicant who receives a DEB can apply to the Division of Taxation for a corporate business tax credit and/or sales tax refund. These incentives will help to encourage the reuse of further treated effluent in industrial processes that will result in conservation of New Jersey's stressed water resources. Conserving and protecting water supplies provides social benefits by maintaining recreational opportunities, increasing aesthetics, and protecting public health.

Economic Impact

The implementation of these new rules will result in a positive economic impact for the facilities (applicants) that purchase and operate treatment or conveyance equipment for the purpose of reusing further treated effluent in an industrial process found to be environmentally beneficial.

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DEB recipients who subsequently obtain a corporate tax credit or sales tax refund will benefit financially in two ways. They will benefit from the tax credit and/or refund, which may provide a reduction in taxes of up to 50%. This is a substantial saving on a large investment. Also, because they will be reusing further treated effluent instead of purchasing potable water for their industrial processes, they will expend less to purchase water.

These rules are expected to encourage the reuse of further treated effluent in industrial processes. Therefore, the wastewater treatment facility owners who will be supplying the effluent to industries so it can be further treated and then reused in their industrial processes will indirectly benefit economically from these rules. These wastewater treatment facility owners will be able to reduce the pollutant load discharged to surface water, which may result in a reduction in their NJPDES fee. By diverting some of their effluent to industrial facilities, future wastewater treatment facility expansions may be less costly, since the wastewater treatment facilities would be better able to maintain their existing effluent pollutant loads without costly new treatment equipment. In addition, there is a potential for wastewater treatment facility owners to assess fees for supplying effluent to industrial facilities so it can be further treated and then reused in their industrial processes.

As the demand for water continues to grow along with New Jersey's population, water purveyors are forced to spend funds to locate and develop adequate water supplies to meet the demand. The new rules are expected to increase the amount of further treated effluent reused in industrial processes, which will indirectly benefit water purveyors by

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allowing for postponement of costly investment for development of new water sources and supplies. The financial incentive will instead be to improve existing water treatment plants so as to further improve the quality of drinking water. However, there is some possibility that water purveyors will lose revenue because they will sell less water for non-potable uses in industrial processes.

An applicant who receives a DEB can apply to the Division of Taxation for a corporate business tax credit and/or sales tax refund. Therefore, the implementation of these rules may indirectly result in the loss of State revenues. The decrease in tax revenues will be dependent on the number of taxpayers who decide to take advantage of the tax credits or refunds in any given year.

Environmental Impact

The development of these rules will result in an indirect positive environmental impact since these rules are expected to encourage the reuse of further treated effluent in industrial processes. Reuse of further treated effluent can be environmentally beneficial in several ways. These benefits include reduction of the demand for potable water and subsequent deferral of costly development of new water sources and supplies as well as reduction of pollutant loadings to surface waters. Since there is a finite supply of fresh, clean water, reuse of further treated effluent for industrial purposes is especially beneficial as industries often use large quantities of water, such as for cooling purposes at power utilities. The Department's determination under these rules that the treatment

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and/or conveyance equipment for which tax credits and/or tax exemptions are sought will be beneficial to the State's water resources will further ensure the environmentally positive impact of the rules.

Federal Standards Analysis

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. N.J.A.C. 7:14D is not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis.

Job Impact

The implementation of these proposed rules is expected to have no impact on employment and jobs in New Jersey.

Agricultural Industry Impact

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The proposed rules are expected to have a positive impact on any agricultural industry that could use further treated effluent in its processes. The impact would be similar to those described above in the Economic Impact statement.

Regulatory Flexibility Analysis

The Department anticipates that few, if any, small businesses as defined in the Regulatory Flexibility Act (N.J.S.A. 52:14B et seq.) will seek corporate business tax credit and/or sales tax refund for treatment or conveyance equipment purchased for the exclusive purpose of reusing further treated effluent in industrial processes. However, the proposed rules do not impose reporting, recordkeeping or other compliance requirements other than application requirements. The rules do not require an application review fee, and the application can be completed by the applicant without need for the services of professional engineers or other consultants. Accordingly, the Department has determined that an exemption or reduction in the application requirements for small businesses is not necessary.

Smart Growth Impact

The proposed rules are expected to have an indirect positive impact on smart growth and implementation of the State's Development and Redevelopment Plan, particularly in the area of preserving water resources. As described above in the Environmental Impact

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statement, these rules will aid in promoting conservation of the State's limited supply of water as industries will be using further treated effluent in their industrial processes rather than other water sources. Therefore, there could be a reduction in the need to develop new water sources and supply facilities. For any proposed new facilities, growth issues will have already been considered under the water quality management planning process (N.J.A.C. 7:15) and the New Jersey Pollutant Discharge Elimination System (NJPDDES) permitting process (N.J.A.C. 7:14A).

Full text of the special adopted and concurrent proposed new rules follows:

SUBCHAPTER 1. GENERAL PROVISIONS

7:14D-1.1 Purpose and Applicability

- (a) This chapter establishes the requirements and procedures by which the Department will determine whether treatment equipment or conveyance equipment purchased for an industrial facility for purposes of reusing further treated effluent in an industrial process will, in its operation, and considered in conjunction with the reuse of the further treated effluent that results from that operation, result in an environmental benefit to the water resources of the State.

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(b) This chapter applies to treatment equipment or conveyance equipment that is or will be operated exclusively within the State.

(c) An applicant who is issued a determination of environmental benefit (DEB) under this chapter may submit the DEB to the Director of the Division of Taxation, N.J. Department of Treasury, for purposes of claiming a corporate tax credit pursuant to N.J.S.A. 54:10A-5.31 and/or of obtaining a sales tax refund pursuant to N.J.S.A. 54:32B-8.36.

7:14D-1.2 Definitions

When used in this chapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise.

“Applicant” means the person who purchases treatment equipment or conveyance equipment on behalf of an industrial facility and who submits an application to the Department for a determination of environmental benefit under this chapter.

“Conveyance equipment” means any equipment, including but not limited to pipes, pumps and/or other appurtenances, that is used exclusively to transport effluent to the facility in which the treatment equipment has been or is to be installed and any equipment that is used exclusively to transport further treated effluent to an industrial facility for

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reuse in an industrial process. This does not include any conveyance equipment used to transport wastewater.

“Department” means the New Jersey Department of Environmental Protection.

“DEB” means the determination of environmental benefit issued by the Department under this chapter.

“Effluent” means the liquid that results from treatment by either a domestic or an industrial wastewater treatment facility in accordance with a New Jersey Pollutant Discharge Elimination System (NJPDES) permit issued under N.J.A.C. 7:14A.

“Further treated effluent” means effluent that is subjected to additional treatment for the purpose of reusing the effluent in an industrial process.

“Industrial facility” means a facility where an industrial process takes place.

“Industrial process” means any manufacturing process including but not limited to such processes as power generation, paper production and oil refining. An industrial process does not include recreational activities, such as dust control at athletic fields.

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“Person” means an individual, corporation, partnership or owner or operator of an industrial facility or an agent or employee thereof. “Person” shall also mean a responsible official.

“Pollutant” means pollutant as that term is defined in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

“Responsible official” means one of the following:

1. For a corporation:
 - i. A president, secretary, treasurer or vice-president of the corporation, who is in charge of a principal business function;
 - ii. Any other person who performs similar policy or decision-making functions for the corporation; or
 - iii. A duly authorized representative of the person in 1i or 1ii above, if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for the determination of environmental benefit , and either:
 - (1) The facilities, for which the representative is responsible, employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

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(2) The delegation of authority to the representative is approved in writing in advance by the Department;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

“Treatment equipment” means any equipment that is used exclusively to treat effluent from a wastewater treatment facility, which effluent would otherwise have been legally discharged into waters of the State, for purposes of reuse in an industrial process.

“Wastewater” means untreated liquid waste from either a domestic or an industrial source. For purposes of this chapter, wastewater also includes the wastewater that results from the reuse of further treated effluent in an industrial process.

“Wastewater treatment facility” means a facility that treats wastewater to reduce the levels of pollutants contained in the wastewater.

7:14D-1.3. Construction and severability

- (a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of N.J.S.A. 54:10A-5.31 and -5.32 and N.J.S.A. 54:32B-8.36.

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- (b) If any subchapter, section, subsection, provision, clause or portion of this chapter and the application thereof to any person is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

SUBCHAPTER 2. APPLICATION PROCESS

7:14D-2.1 Application Requirements

- (a) An applicant should refer to the web page for the Division of Water Quality in the Department at www.state.nj.us/dep/dwq or write to the address at (b) below for guidance in applying for a DEB.
- (b) An applicant seeking a determination of environmental benefit (DEB) shall submit to the Department a complete application, with original signature, as described in this section to:
- Director's Office
Division of Water Quality
N.J. Department of Environmental Protection
PO Box 29
401 East State Street
Trenton, NJ 08625-0029

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Attn: Reuse Tax Incentives Program

(c) A complete application shall consist of the following:

1. A DEB application form obtained from the Department at the address in (b) above or at the web page address at (a) above, certified in accordance with (d) below.

The DEB application form shall include the following information:

- i. The name and mailing address of the applicant;
 - ii. A brief description of the effluent reuse project;
 - iii. The name and location of each wastewater treatment facility from which the effluent originates or will originate;
 - iv. The name and location of each industrial facility to which the further treated effluent is or will be conveyed for reuse;
 - v. A list of all applicable Federal, State, and local permits and/or approvals required for construction and/or operation of the treatment equipment or conveyance equipment, along with the issuance date of each permit; and
 - vi. The date or anticipated date of purchase of the treatment equipment or conveyance equipment.
2. A report describing each specific industrial process for which the further treated effluent is or will be reused, including the following:
 - i. The physical and functional aspects of the treatment equipment or conveyance equipment;
 - ii. The location of any site at which the wastewater that results from the reuse of the further treated effluent is or will be discharged;

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- iii. The volume of the further treated effluent, including the daily average and maximum flow rates, that is or will be reused;
 - iv. The volume of further treated effluent that is or will be consumed in the reuse process; and
 - v. The volume of wastewater that is or will be discharged thereafter.
3. A line-item breakdown showing the cost of each component of the treatment equipment or conveyance equipment for which the DEB is sought.
4. If applicable, a copy of the agreements governing the wastewater treatment facility's supply and the industrial facility's use of the effluent.
5. A description of the impacts and benefits to the waters of the State resulting from the reuse of the further treated effluent in the industrial process. The description shall, at a minimum, demonstrate that:
- i. The reuse will not cause a violation of any minimum passing flow restrictions applicable in the waterbody to which the effluent would otherwise have been discharged;
 - ii. If the reuse will result in an interbasin transfer (that is, if the ultimate discharge of the wastewater is to a watershed other than the one to which the effluent would have been discharged if it were not reused), then such

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interbasin transfer will not have an adverse impact on the water resources in the affected watersheds;

- iii. The pollutant load to the receiving waterbody to which the effluent would have been discharged if it were not reused is or will not be increased as a result of the reuse; and
- iv. The water resources of the State are or will be conserved as a result of the reuse.

- 6. Any additional information determined by the Department to be necessary to determine if the treatment equipment or conveyance equipment meets the requirements of this chapter.

- (d) A responsible official of the industrial facility shall sign and certify the application for a DEB and any attachments. The certification shall read as follows:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete.

I certify that the treatment equipment is or will be used exclusively to treat effluent from a wastewater treatment facility, which effluent would otherwise have

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been legally discharged to the waters of the State, for purposes of reuse in an industrial process. I certify that the conveyance equipment is or will be used exclusively to transport effluent to the facility in which the treatment equipment has been or is to be installed and/or that the conveyance equipment is or will be used exclusively to transport the further treated effluent to an industrial facility for reuse in an industrial process.

I certify that all applicable Federal, State, and local permits and/or approvals for construction and/or operation of the treatment equipment or conveyance equipment have been obtained.

I certify that, to the best of my knowledge, the treatment equipment or conveyance equipment has not previously qualified for a tax credit pursuant to N.J.S.A. 54:10A-5.31 for the applicant or other owner or any previous owner of the equipment.

I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly or negligently submitting false information.”

- (e) If an application is incomplete, the Department shall notify the applicant of the deficiency or deficiencies in writing.
- (f) If an applicant does not submit the information necessary to complete the application within 30 calendar days after receipt of the Department’s notification under (e) above,

the Department shall inactivate and return the application, unless the applicant demonstrates good cause for a further extension of time to complete the application.

1. A previously inactivated application may be re-submitted within one year from the date of inactivation. After that date, a new application shall be submitted.

7:14D-2.2. Opportunity for Public Comment

(a) For any application for a DEB, an opportunity for public comment on the application shall be provided for the limited purpose of determining whether:

1. The treatment equipment is or will be used exclusively to treat effluent for purposes of reuse in an industrial process;
2. The conveyance equipment is or will be used exclusively to transport effluent to the facility in which treatment equipment has been or is to be installed and/or to transport further treated effluent to an industrial facility for reuse in an industrial process; and
3. The reuse of the further treated effluent in an industrial process has an environmental benefit to the water resources of the State.

(b) The Department shall publish in the DEP Bulletin a notice of each complete application for a DEB received under NJAC 7:14D-2.1.

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(c) The Department shall accept written comments on an application for 30 days from the date of publication of the notice. Comments shall be submitted to the address listed at N.J.A.C. 7:14D-2.1(b).

(d) The application may be reviewed during the comment period, by appointment only, at the address listed at N.J.A.C. 7:14D-2.1(b).

7:14D-2.3. Action on application; standards for decision

(a) Based on its review of the complete application submitted in accordance with N.J.A.C. 7:14D-2.1, and any public comment received in accordance with N.J.A.C. 7:14D-2.2, the Department shall issue a DEB if it determines that the following standards are met:

1. The treatment equipment is or will be used exclusively to treat effluent from a wastewater treatment facility for the purposes of reuse in an industrial process, which effluent would otherwise have been legally discharged into waters of the State;
2. The conveyance equipment is or will be used exclusively to transport effluent to the facility in which treatment equipment has been or is to be installed and/or to

transport further treated effluent to an industrial facility for reuse in an industrial process; and

3. The reuse of the further treated effluent is or will be beneficial to the water resources of the State. The following factors shall be considered in this determination:
 - i. That the reuse will not cause a violation of any minimum passing flow restrictions applicable in the waterbody to which the effluent would otherwise have been legally discharged;
 - ii. That, if the reuse results in an interbasin transfer (that is, if the ultimate discharge of the wastewater is to a watershed other than the one to which the effluent would have been legally discharged if it were not reused), then such interbasin transfer will not have an adverse impact on the water resources in the affected watersheds;
 - iii. That the pollutant load to the receiving waterbody to which the effluent would have been legally discharged if it were not reused is or will not be increased as a result of the reuse; and
 - iv. That water resources of the State are or will be conserved as a result of the reuse.

(b) A DEB issued under this section shall include:

1. The name of the industrial facility and the applicant to whom the DEB is issued;

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2. A list of the treatment equipment or conveyance equipment that the Department has determined meets the requirements of this chapter;
3. The purchase cost of the treatment equipment or conveyance equipment that the Department has determined meets the requirements of this chapter;
4. The date of the DEB; and
5. A statement that, pursuant to this chapter, the Department has determined that the treatment or conveyance equipment will, in its operation, and considered in conjunction with the reuse of the further treated effluent that results from that operation, result in an environmental benefit.

(c) The DEB shall be accompanied by a summary prepared by the Department, which shall include the following;

1. A description of the relevant public comments received on the DEB application and the Department's responses to issues raised in the comments; and
2. An explanation of the basis of the Department's determination that the treatment equipment or conveyance equipment complies with the standards at (a) above and the requirements of this chapter.

(d) If the Department determines that the treatment equipment or conveyance equipment for which the DEB application was submitted does not meet the standards at (a) above, the Department shall deny the DEB in writing. The denial shall state the basis

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for the denial, including a description of relevant public comments received on the DEB application and the Department's responses to issues raised in the comments.

- (e) The Department shall provide a copy of each DEB issued under this chapter to the Division of Taxation, N.J. Department of Treasury, and to any person who submitted written comments on the application in accordance with N.J.A.C. 7:14D-2.2.

SUBCHAPTER 3. REQUESTS FOR ADJUDICATORY HEARINGS

7:14D-3.1 Requests for adjudicatory hearings

(a) Subject to the limitation on third-party hearing rights specified in (e) below, a person may request an adjudicatory hearing to contest the Department's decision under this chapter on an application for a determination of environmental benefit (DEB).

(b) A request for an adjudicatory hearing shall be submitted within 30 days of receipt of the Department's decision. The request shall be in writing, and shall include:

1. A copy of the decision on which the hearing is being requested; and
2. A detailed explanation of the requester's reasons for requesting the hearing, including the factual and legal basis for the appeal.

(c) The request for an adjudicatory hearing shall be submitted to the Office of Legal Affairs, N.J. Department of Environmental Protection, PO Box 402, Trenton, New Jersey 08625-0402, Attention: Adjudicatory Hearing Requests. A copy of the request shall also be submitted to the Division of Water Quality in the Department at the address provided in N.J.A.C. 7:14D-2.1(b).

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(d) Any adjudicatory hearing granted under this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Nothing in this section shall be construed to provide a right to an adjudicatory hearing in contravention of N.J.S.A. 52:14B-3.1 through 3.3 (P.L. 1993, c.359).

Based upon consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirements of Executive Order 27 (1994), permit the public to understand accurately and plainly the purpose and expected consequences of this proposal. I hereby authorize this proposal.

DATE

(signed Aug. 15, 2002)

Bradley M. Campbell
Commissioner